R E M A R K S

Claims 1-20 were presented for examination and were rejected. The applicants respectfully request reconsideration in light of the amendments and the following comments.

The claims as originally filed used the "**said**" convention for introducing previously-introduced limitations. The claims have been amended to switch to the "the" convention because it is more easily read and comprehended.

Claims 1 and 11 have been amended to clarify the relationship of the first and second auction variables to each other, to the bidding process, and to the contract terms of the contract that results from the auction. This was not necessary to distinguish the claims from the cited art, but is done to clarify the scope of the claims with respect to all of the prior art.

Objection to the Drawings

Figures 7A, 7B, and 7C were objected to because they did not have labels or reference numbers needed to understand the drawings. The applicants respectfully traverse the objection.

Figures 7A, 7B, and 7C illustrate "linear," "piecewise linear," and "non-linear" curves, respectively, as described in the detailed description in paragraphis [0063] through [0070] and need no further labels. For this reason, the applicants respectfully submit that the objection is traversed.

36 U.S.C. 112 Rejection of Claim 2

Claim 2 was rejected under 35 U.S.C. 112, second paragraph, for negative claiming.

Claim 2 has been amended, and the applicants respectfully submit that the claim, as amended, overcomes the rejection.

35 U.S.C. 102 Rejection of Claims 1-3, 5, 10, and 20

Claims 1-3, 5, 10, and 20 have been rejected under 35 U.S.C. 102(e) as anticipated by H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou"). The applicants respectfully traverse the rejection.

Claim 1, as amended, recites:

> **1.** A method of conducting an auction in behalf of an auction solicitor, the method comprising:
>
> publishing from a data processing system a relationship between a first auction variable that is a bid variable and a second auction variable that is not a bid variable; and
>
> selecting at the data processing system a winning bid in the auction, wherein the selection of the winning bid is dependent on the first auction variable and independent of the second auction variable;
>
> wherein the first auction variable and the second auction variable become contract terms of a contract that results from the auction; and
>
> wherein the value of the second auction variable in the contract is based on the value of the first auction variable in the contract and the relationship between the first auction variable and the second auction variable.
>
> (emphasis supplied)

Nowhere does Abdou teach or suggest, alone or in combination, what claim 1 recites — namely,

→ publishing a relationship between a first bid variable and a second nonbid variable, and

→ selecting a winning bid that is dependent on the first auction variable but independent of the second auction variable, and

→ wherein the first auction variable and the second auction variable become contract terms of a contract that result from the auction.

In contrast, Abdou teaches an auction that aggregates orders from a plurality of customers to satisfy an order. There is no "relationship" between a first auction variable and a second auction variable that become contract terms of a contract, as recited in the claim. For this reason, the applicants respectfully submit that the rejection of claim 1 is traversed.

Claim 2, as amended, recites:

> **2.** The method of claim 1 wherein the relationship is such that a change in the first auction variable in a direction that is favorable to the auction solicitor induces a change in the second auction variable in a direction that is favorable to a bidder.
>
> (emphasis supplied)

Nowhere does Abdou teach or suggest, alone or in combination, what claim 2 recites — namely that the relationship between the first auction variable and the second auction

variable is such that <u>a change in</u> the<u> first auction variable in a direction that is favorable to</u> the<u> auction solicitor induces a change in</u> the<u> second auction variable in a direction that is</u> <u>favorable to a bidder</u>**.** For this reason the applicants respectfully submit that the rejection of claim 2 is traversed.

Because claims 3, 5, and 10 depend on claim 1, the applicants respectfully submit that the rejection of them is also traversed.

Claim 20 depends on independent claim 11, and the Office agrees that Abdou does not anticipate claim 11. Therefore, the applicants respectfully submit that the rejection of claim 20 is traversed.

35 U.S.C. 103 Rejection of Claim 4

Claim 4 has been rejected under 35 U.S.C. 103(a) as being unpatentable over by H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") in view of C.C. Aggarwal, U.S. Patent 6,151,589 (hereinafter "Aggarwal"). The applicants respectfully traverse.

Claim 4 depends on independent claim 1, and Aggarwal fails to cure the deficiences of Abdou with respect to claim 1. Therefore, the applicants respectfully submit that the rejection of claim 4 is traversed.

35 U.S.C. 103 Rejection of Claims 6-8

Claims 6-8 have been rejected under 35 U.S.C. 103(a) as being unpatentable over by H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") in view of K. Williams, *"Reviewing and Analyzing Service Contracts,"* (hereinafter "Williams"). the applicants respectfully traverse.

Claims 6-8 depend on independent claim 1, and Williams fails to cure the deficiences of Abdou with respect to claim 1. Therefore, the applicants respectfully submit that the rejection of claims 6-8 is traversed.

35 U.S.C. 103 Rejection of Claim 9

Claim 9 has been rejected under 35 U.S.C. 103(a) as being unpatentable over by H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") in view of <u>Business Wire</u>, *"Test Drive RFPHere.com Free for Three Months,"* (hereinafter "<u>Business Wire</u>"). The applicants respectfully traverse.

Claim 9 depends on independent claim 1, and <u>Business Wire</u> fails to cure the deficiences of Abdou with respect to claim 1. Therefore, the applicants respectfully submit that the rejection of claim 9 is traversed.

<u>35 U.S.C. 103 Rejection of Claims 11-13 and 19-20</u>

Claim 11 has been rejected under 35 U.S.C. 103(a) as being unpatentable over by H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") in view of S.E. Kinney et al., U.S. Patent 6,871,191 (hereinafter "Kinney"). The applicants respectfully traverse.

Independent claim 11, as amended, recites:

> **11.** A method of conducting an auction in behalf of an auction solicitor, the method comprising:
>
> publishing from a data processing system a relationship between a first auction variable that is a bid variable and a second auction variable that is not a bid variable, <u>wherein the relationship is such that a change in the first auction variable in a direction that is favorable to the auction solicitor induces a change in the second auction variable in a direction that is favorable to a bidder</u>; and
>
> selecting at the data processing system a winning bid in the auction based on the first auction variable and independent of the second auction variable;
>
> wherein the first auction variable and the second auction variable become contract terms of a contract that results from the auction; and
>
> wherein the value of the second auction variable in the contract is based on the value of the first auction variable in the contract and the relationship between the first auction variable and the second auction variable.
>
> (emphasis supplied)

Nowhere do Abdou or Kinney, alone or in combination, teach or suggest what claim 11 recites — namely, the relationship between the first auction variable and the second auction variable is such that <u>a change in</u> the<u> first auction variable in a direction that is favorable to</u> the<u> auction solicitor induces a change in</u> the<u> second auction variable in a direction that is favorable to a bidder</u>.

Kinney teaches a plurality of bidders in an auction, each of which can offer a different quantity of a good at a different price, and the Office incorrectly equates the price and quantity terms of Kinney with the first auction variable and the second auction variable. This is incorrect for two reasons.

First, in Kinney the data processing system does not publish a relationship between price and quantity that become contract terms in a contract that results from the auction

Second, in Kinney the winner of the auction is based on both price <u>and</u> quantity, but as recited in claim 11, the winner is based on the first auction variable but is independent of the second auction variable.

For these reasons, the applicants respectfully submit that the rejection of claim 11 is traversed.

Because claims 12-13 and 19-20 depend on claim 11, the applicants respectfully submit that the rejection of them is also traversed.

35 U.S.C. 103 Rejection of Claims 15-17

Claims 15-17 have been rejected under 35 U.S.C. 103(a) as being unpatentable over by H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") in view of S.E. Kinney et al., U.S. Patent 6,871,191 (hereinafter "Kinney") and K. Williams, "*Reviewing and Analyzing Service Contracts,*" (hereinafter "Williams"). the applicants respectfully traverse.

Claims 15-17 depend on independent claim 11, and Williams fails to cure the deficiences of Abdou and Kinney with respect to claim 11. Therefore, the applicants respectfully submit that the rejection of claims 15-17 is traversed.

35 U.S.C. 103 Rejection of Claim 18

Claim 18 has been rejected under 35 U.S.C. 103(a) as being unpatentable over by H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") in view of S.E. Kinney et al., U.S. Patent 6,871,191 (hereinafter "Kinney") and <u>Business Wire</u>, "*Test Drive RFPHere.com Free for Three Months,*" (hereinafter "<u>Business Wire</u>"). The applicants respectfully traverse.

Claim 18 depends on independent claim 11, and <u>Business Wire</u> fails to cure the deficiences of Abdou and Kinney with respect to claim 11. Therefore, the applicants respectfully submit that the rejection of claim 18 is traversed.

Request for Reconsideration Pursuant to 37 C.F.R. 1.111

Having responded to each and every ground for objection and rejection in the last Office action, applicants respectfully request reconsideration of the instant application

pursuant to 37 CFR 1.111 and request that the Examiner allow all of the pending claims and pass the application to issue.

If there are remaining issues, the applicants respectfully request that Examiner telephone the applicants' attorney so that those issues can be resolved as quickly as possible.

Respectfully,
Steven Phillip Gologorsky et al.

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